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EXAMINER

ASHBURN, STEVEN L

ART UNIT PAPER NUMBER

3714

DATE MAILED: 05/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/686,284

Examiner

Steven Ashburn

Applicant(s)

HUGHS-BAIRD, ANDREA C.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-34 and 36-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-34 and 36-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 18.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***DETAILED ACTION***

***Drawings***

The corrected or substitute drawings were received on March 14, 2003. These drawings are acceptable.

***Claim Rejections - 35 USC § 112***

The rejection of claim 1 under 35 U.S.C. 112, second paragraph is withdrawn.

***Claim Rejections - 35 USC § 103***

**Claims 1, 2, 5, 8-11, 15, 20, 23, 29, 30, 35 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al., U.S. 6,322,309 (Nov. 27, 2001) in view of Fier, U.S. Patent 6,126,542 (Oct. 3, 2000)**

In regards to claims 1, 10, 20 and 29: *Thomas* teaches a gaming device having a selection-type bonus game wherein a plurality of hidden selections associated with symbols are presented on a display and players successively pick selections to generate outcomes. If the player selects a credit symbol, he is awarded a payoff. If a player selections a terminating symbol, the game ends. In an embodiment based on the board game MONOPOLY™, in which certain selections are associated in sets and players are awarded an additional payoff when a set is completed. *See col. 11:38-65*. In particular regards to the claims, the reference describes the following features:

- a. A bonus round triggered by a primary game. *See col. 5:25-36*.
- b. A plurality of selections displayed to the player. *See fig. 8, 9*.
- c. A first plurality of credit symbols associated with the selections and a second plurality of award symbols associated with selections. *See col. 11:18-65*.

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d. Picking one of the selections and displaying a symbol associated with the picked selection. *See col. 10:30-65.*

e. Accumulating the symbol if the symbol is associated with an award selection and providing the player an award if the symbol is a credit symbol. *See col. 11:38-65.*

More specifically, the MONOPOLY™ embodiment provides a selection-type bonus game having more than one type of symbols including properties, utilities, railroads, and end-game symbols. *See id.* All symbols except end-game symbols are associated with an award. *See id.* Property symbols may be collected to complete sets. *See id.* If a set of property symbols is completed, the player is issued an additional award. *See id.* Hence, property symbols constitute a plurality of award symbols and other selections constitute a plurality of credit selections.

f. A winning combination of award symbols. *See id.*

g. A display device adapted to display selections, credit symbols and award symbols to a player. *See fig. 8, 9, 12-14.*

h. A processor that communicates with the display device, provides a number of credits to the player when the player chooses each of the selections having an associated credit symbol, and provides the player an award when the accumulated award symbols reach a winning combination. *See id.*

i. Providing the player a number of picks from the display; crediting the player an amount associated with each pick having an associated credit symbol; accumulating the award symbols from each pick having an associated award symbol; and providing the player an award based on the number of accumulated award symbols wherein the award increases non-linearly as the number of accumulated award symbols increases. *See fig. 8; col. 9:55-11:65.*

However, *Thomas* lacks the feature of a jackpot award associated with the winning combination of award symbols wherein all or all but one of a provided number of player picks if the selections must result in

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award symbols to achieve the winning combination and the number of picks is at least two. Regardless of the deficiency, this feature was known in the art at the time of the invention and would have been obvious to an artisan in view of *Fier*.

*Fier* discloses an analogous gaming device offering a primary and secondary game. *See abstract*. When the player obtains a predetermined outcome in the primary game, a secondary game is initiated wherein the player is presented with a plurality of hidden selections. *See id.* The player selects symbols that reveal the selected hidden values. *See id.* If the revealed values correspond to a secondary winning outcome, the player receives an additional reward. *See id.* In specific regards to the claims, *Fier* discloses a jackpot award associated with the winning combination of award symbols wherein all picks must result in award symbols to achieve the winning combination and the number of picks is more than two. *See col. 7:28-9:7*. More specifically, the bonus game allows a player to make five selections. *See id.* If the player's selections result in a particular winning combination (e.g. Royal Flush), the player is awarded a jackpot. *See id.* Notably, *Fier* suggests that selections may be symbols other than playing cards. *See col. 8:48-63*.

In view of *Fier*, it would have been obvious to an artisan at the time of the invention to modify the gaming device disclosed by *Thomas*, wherein award symbols may be combined to provide an additional award in a selection-type bonus game, to add the feature of a jackpot award associated with a winning combination of award symbols wherein all or all but one of a provided number of player picks if the selections must result in award symbols to achieve the winning combination and the number of picks is at least two. As suggested by *Fier*, the modification would enhance players' the gaming device by offering large, secondary awards. *See col. 2:11-26*. As a result, operator revenue would increase due to the additional player interest.

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In regards to claims 2 and 9: *Thomas* discloses accumulating awards associated with subsequent selections wherein credits may be associated with any of the selected outcomes. *See col. 11:18-65.*

In regards to claims 5, 10, 15, 23: *Thomas* additionally discloses a functional symbol associated with one of the selections. *See col. 12:6-24.* More specifically, *Thomas* discloses a functional “party pooper” symbol performing the function of ending the player’s selections. *See id.*

In regards to claim 8: *Thomas* additionally discloses a plurality of related award symbols defining winning combinations of award symbols that can be selected within the number of picks. *See id.*

In regards to claim 11: *Thomas* additionally discloses enabling players to pick selections. *See col. 10:30-65.*

In regards to claim 30: *Fier* discloses an award for collecting award symbols that is jackpot. *See col. 7:40-8:18.*

In regards to claim 38: The gaming device suggested by the combination of *Thomas* with *Fier* describes all the features of the claim. *See supra.* In particular, *Kamille* teaches arranging the odds of the bonus game such that the odds of obtaining the predetermined award symbols is low enough that the jackpot can be at least \$1,000,000. *See 7:40-8:18.*

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**Claims 3, 4, 12, 13 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Thomas* with *Fier*, as applied to claims 1, 10, 20 and 29 above, in further view of Mayeroff, U.S. Patent 6,231,442 (May 15, 2001).**

In regards to claims 3, 12 and 21: The gaming device suggested by the combination of *Thomas* with *Fier* describes all the features of the claims except determining the number of selections in the bonus game based on player's wager in the primary game. Regardless of these deficiencies, the above features are known and would be obvious to one of ordinary skill in view of prior art.

*Mayerhoff* discloses a gaming device with an analogous selection-type bonus scheme. The number of selections in the bonus game is based on the player's wager in the primary game. See col. 7:47-52. *Mayerhoff* suggests that this method motivates players to increase their primary wagers. See col. 3:57-60.

In view of *Mayerhoff*, it would have been obvious to one skilled in the art at the time of the invention to modify the selection game described by the combination of *Thomas* with *Tic-Tac-Dough* and *Walker* to add the features of basing the number of selections in the bonus on the player's wager in the primary game to motivate players to increase their wagers to gain more selections to receive greater odds of a bonus payoff and thereby increase operator revenue from the increased wagers.

In regard to claims 4 and 13: *Fier* additionally describes providing a sufficient number of selections to allow the player to select award symbols necessary for obtaining a winning combination. See col. 7:28-39.

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**Claims 6, 7, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Thomas* with *Fier*, as applied to claims 1, 10, 20 and 29 above, in further view of Bennett, U.S. Patent Application Publication 2003/0073481 A1 (Apr. 17, 2003).**

In regards to claims 6 and 24: The selection game described by the combination of *Thomas* with *Fier* describes all the features of their respective claims except functional symbols that change the total number of selections. Regardless of these deficiencies, this feature was known in the art at the time of the invention and would be obvious to one of ordinary skill in view *Bennett*.

*Bennett* discloses an analogous selection-type game in which selections include functional symbols that change the total number of selections available to the player. *See fig. 4; ¶¶ 13, 29.*

In view of *Bennett*, it would have been obvious to an artisan at the time of the invention to modify the gaming device suggested by the combination of *Thomas* and *Fier*, wherein players make a predetermined number of selections in a bonus game including functional symbols, to add the feature of functional symbols that change the total number of selections. As taught by *Bennett*, the modification would make the game more interesting by adding additional twists that increase a player's interest in the game. *See id.*

In regards to claims 7 and 25: *Bennett* additionally teaches a functional symbols being a modifier symbol (e.g. bonus, penalty). *See id.*

**Claims 16-19 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable *Thomas* with *Fier*, as applied to claims 1, 10, 20 and 29 above, in further view of Holmes, U.S. 5,882,259 (Mar. 16, 1999).**



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The references above disclose all the features of their respective claims except a selection confirmation indicator enabling the player to confirm the player's selections after the player selects all of the player's selections. Regardless these deficiencies, the above features are known and would be obvious to one of ordinary skill in view of prior art.

*Holmes* discloses an analogous gaming device where a player selects a set of choice from a matrix a available choices. In particular, a matrix of all possible selections is displayed to the player. *See fig. 3; col. 2:38-3:5*. The player selects a predetermined number of choices and presses "play" to initiate the game after the player has confirmed his choices. *See id.* Subsequently, the player is paid for receiving cards or combinations that match his selections. *See id.*

It would have been obvious to one skilled in the art at the time of the invention to modify the selection-type games described by the combination of *Thomas* with *Fier* to add a selection confirmation indicator enabling the player to confirm the player's selections after the player selects all of the player's selections and a selection confirmation indicator enabling the player to confirm each selection picked by the player.

**Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Thomas* with *Fier*, as applied to claims 1, 10, 20 and 29 above, in further view Walker, U.S. 6,001,016 (Dec. 12, 1999).**

The references above disclose all the features of their respective claims except operating the game through a network or Internet. Regardless these deficiencies, the above features are known and would be obvious to one of ordinary skill in view of prior art.

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*Walker '016* discloses a system for remote gaming over a network. The system can operate over both local and Internet network systems. *See col. 3:60-4:8. Walker '016* explains the benefits allow players to play a variety of games from a remote location. *See col. 1:19-34.*

In view of *Walker '016*, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the selection game described by the combination of *Thomas* with *Tic-Tac-Dough* and *Walker* to allow a greater number of players to access games from remote locations over a network connection and thereby generate greater revenue for the operator.

**Claims 22, 27, 29, 32 and 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable *Thomas* with *Fier*, as applied to claims 1, 10, 20 and 29 above, in further view of *Kamille*, U.S. Patent 5,092,598 (Mar. 3, 1992).**

In regards to claims 22, 27 and 32: The gaming device suggested by the combination of *Thomas* and *Fier* suggests all of the features of the claimed invention except limiting the predetermined number of picks to being not more than one plus the number of award symbols. Regardless of the deficiency, this feature would have been obvious to an artisan at the time of the invention in view of *Kamille*.

*Kamille* discloses an analogous gaming system offering a multiple-play lottery game for use as a promotional game or casino-style game. *See abstract.* The game may be played on disposable card or in a video format. *See id.* One embodiment provides a progressive format having multiple tiers each of which has multiple hidden selections which are arranged in a trapezoidal arrangement. *See fig. 1-3; col. 3:1-25.* The player picks one symbol from each tier. If the player picks five award symbols in five random selections, then the player is awarded a high-value award. *See id.* In an alternative embodiment, *Kamille* discloses a selection-type game in which a player is limited to ten picks to find up to ten award symbols. *See fig. 4.* In another alternative embodiment, *Kamille* discloses a selection-type game in which

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a player is limited to three picks to find up to three matching award symbols. *See fig. 8*. Hence, *Kamille* teaches casino games wherein a player is limited to a predetermined number of picks not being more than one plus the number of award symbols in a selection-type game having a plurality of award symbols and non-award symbols.

In view of *Kamille*, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the gaming device suggested by the combination of *Thomas* and *Fier*, wherein a player makes a predetermined number of picks and is awarded an additional award if the picks complete a set of award symbols, to add the feature of limiting the predetermined number of picks to being not more than one plus the number of award symbols. Furthermore, as disclosed by *Kamille*, such games enhance a gaming device by providing operators control over large prize allocations, while simultaneously providing the player with the impression of self-determination. *See col. 1:40-46*.

In regards to claim 28: *Thomas* discloses accumulating awards associated with subsequent selections wherein credits may be associated with any of the selected outcomes. *See col. 11:18-65*.

In regards to claim 36: The gaming device suggested by the combination of *Thomas* with *Fier* and *Kamille* describes all the features of the claim. *See supra*. In particular, *Kamille* teaches providing a jackpot award to a player only if, for each of the provided number of player picks, the player picks selections which form the winning combination of award symbols. *See fig. 1-4, 8*.

In regards to claim 37: *Thomas* additionally teaches including a plurality of winning combinations of award symbols that can be selected with a number of picks. *See col. 11:18-65*. Alternatively, *Kamille* also teaches this feature. *See fig. 8*.

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**Claims 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Thomas* with *Fier*, as applied to claims 1, 10, 20 and 29 above, in further view Walker, U.S. 6,001,016 (Dec. 12, 1999).**

The gaming system suggested by the combination of *Thomas* and *Fier* describes all the features of the claims except operating the game through a network or Internet. Regardless these deficiencies, the above features are known and would be obvious to one of ordinary skill in view of prior art.

*Walker* discloses a system for remote gaming over a network. The system can operate over both local and Internet network systems. *See col. 3:60-4:8. Walker* explains the benefits allow players to play a variety of games from a remote location. *See col. 1:19-34.*

In view of *Walker*, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the selection game described by the combination of *Thomas* with *Fier* to allow a greater number of players to access games from remote locations over a network connection and thereby generate greater revenue for the operator.

**Claims 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Thomas* with *Fier* and *Kamille*, as applied to claims 22, 27 and 32 above, in further view Walker, U.S. 6,001,016 (Dec. 12, 1999).**

The gaming system suggested by the combination of *Thomas* and *Fier* and *Kamille* describes all the features of the claims except operating the game through a network or Internet. Regardless these deficiencies, the above features are known and would be obvious to one of ordinary skill in view of prior art.

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*Walker* discloses a system for remote gaming over a network. The system can operate over both local and Internet network systems. *See col. 3:60-4:8. Walker* explains the benefits allow players to play a variety of games from a remote location. *See col. 1:19-34.*

In view of *Walker*, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the selection game described by the combination of *Thomas* with *Fier* and *Kamille* to allow a greater number of players to access games from remote locations over a network connection and thereby generate greater revenue for the operator.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-13, 15-34 and 36-40 have been considered but are moot in view of the new ground(s) of rejection necessitated by the applicant's amendments.

### ***Conclusion***


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872 9302 for regular communications and 703 872 9303 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1078.

SA  
May 27, 2003



MARK SAGER  
PRIMARY EXAMINER